

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

Trustees of the Electrical Welfare
Trust Fund, et al.

Plaintiffs,

v.

Tri Tech Electrical Services, Inc.

Defendant.

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Civil Case No.: MJG 03CV308

**MEMORANDUM OF POINTS AND AUTHORITES IN SUPPORT OF PLAINTIFFS'
MOTION SHOWING CAUSE AS TO WHY CASE SHOULD NOT BE DISMISSED**

An Order was issued by this Court and signed by Judge Marvin J. Garbis requesting Plaintiff to: 1) show cause why the case should not be dismissed; and to 2) include a statement, with supporting evidence, of reasons why the case has been dormant.

Plaintiffs, by counsel, therefore state that the Complaint was filed on January 30, 2003, and the Defendant was then served in person on February 19, 2003. The Affidavit of Service was filed with the Court on March 31, 2003. When the twenty (20) day period in which to file a Judgment by Default expired on March 11, 2003, Plaintiffs prepared a Request for Default and Motion for Judgment by Default and requested an Affidavit from the Administrator of the Funds regarding the amounts due. Shortly after the request, Defendant made payment of some partial amount which caused a revision of the entire Judgment by Default, Order, and Affidavit. Exhibit A. Defendant and Plaintiffs also began negotiating the amounts due in an attempt to settle this matter. Settlement discussions deteriorated and after the Trustees of the Funds had a collections meeting on March 14, 2003, Counsel revised the entire Judgment by Default to account for the revised figures. Shortly after Counsel requested a second affidavit from the Administrator of the Funds, the Defendant made an additional payment to the Funds which again caused revisions to Judgment by Default. Exhibit

A. Shortly after the Court's Order was issued, Counsel had just finished preparing this Motion and Memorandum for the first time, along with revisions of the Judgment by Default, Order and Affidavits for the third time, and the day after the Affidavit was received from the Administrator and the Judgment by Default was literally ready for filing, Defendant again made partial payment of an amount which changed all of the amounts due. Exhibit A. All told, Counsel for Plaintiffs has revised the Judgment by Default four times in an effort to reflect the accurate amounts due.

Counsel submits that repeated partial payments made it very difficult for the undersigned Counsel to correctly report to the Court the amount of the judgment and provides this Memorandum in support of Plaintiffs' Motion Showing Cause Why Case Should Not be Dismissed.

Plaintiffs also attach the Request for Entry of Default, and Judgment by Default to this Pleading for filing by the Clerk of Court in support of this Motion and Memorandum.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court not dismiss without prejudice the Summons and Complaint filed with this Court on January 30, 2003.

Respectfully submitted,

McChesney & Dale, P.C.

BY: /s/

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